

JAN 20 2012

A BILL FOR AN ACT

RELATING TO FORFEITURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 712A-5, Hawaii Revised Statutes, is
2 amended by amending subsection (2) to read as follows:

3 "(2) Except that:

4 (a) Real property, or an interest therein, may be
5 forfeited under the provisions of this chapter only in
6 cases in which the covered offense is chargeable as a
7 felony offense under state law;

8 (b) No motor vehicle used primarily by the owner for
9 personal use shall be forfeited under this chapter
10 based upon the commission of a covered offense unless:

11 (i) The owner has been convicted of the covered
12 offense; or

13 (ii) A person other than the owner has been convicted
14 of the covered offense and the offense was
15 committed with the knowledge and consent of the
16 owner;

17 [~~(b)~~] (c) No property shall be forfeited under this chapter to
18 the extent of an interest of an owner, by reason of



1 any act or omission established by that owner to have
2 been committed or omitted without the knowledge and
3 consent of that owner;

4 ~~[(e)]~~ (d) No conveyance used by any person as a common carrier
5 in the transaction of a business as a common carrier
6 is subject to forfeiture under this section unless it
7 appears that the owner or other person in charge of
8 the conveyance is a consenting party or privy to a
9 violation of this chapter;

10 ~~[(d)]~~ (e) No conveyance is subject to forfeiture under this
11 section by reason of any act or omission established
12 by the owner thereof to have been committed or omitted
13 without the owner's knowledge or consent; and

14 ~~[(e)]~~ (f) A forfeiture of a conveyance encumbered by a bona fide
15 security interest is subject to the interest of the
16 secured party if the secured party neither had
17 knowledge of nor consented to the act or omission."

18 SECTION 2. Section 712A-11, Hawaii Revised Statutes, is
19 amended by amending subsection (6) to read as follows:

20 "(6) ~~[An]~~ Except as provided in section 712A-5(2)(b), an
21 acquittal or dismissal in a criminal proceeding shall not
22 preclude civil proceedings under this chapter."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 2255

Report Title:

Law Enforcement; Forfeitures; Personal Motor Vehicles; Criminal Conviction Required

Description:

Prohibits law enforcement from seizing motor vehicles for forfeiture if the vehicle is primarily used by the owner for personal use and there has been no conviction for the underlying offense.

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